

THE LAW OFFICE OF

ELISA HYMAN, P.C.

MEMO ENDORSED

July 13, 2022

The Honorable Katherine Polk Failla
United States District Court - Southern District of New York
40 Foley Square
New York, NY 10007

Re: R.S. v. New York City Department of Education, et al., 22-cv-4958 (KPF)

Dear Judge Failla:

I represent the Plaintiffs in the above-referenced case and write jointly with counsel for the Defendants to respectfully request adoption of the parties' proposed schedule outlined below, which includes an extension of time for Defendants to answer, and an adjournment of the initial conference currently scheduled for September 8, 2022. ECF No. 9.

Plaintiff R.S. is the parent of B.T., a young boy with multiple disabilities, requiring special education services so that he could receive a free and appropriate public education ("FAPE") as required by the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 *et seq.* In 2017, Plaintiff filed a due process complaint under the IDEA concerning B.T.'s special education. Ultimately, R.S. prevailed in the IDEA administrative hearing. Under the IDEA, Plaintiff, as the prevailing party in the administrative case, is entitled to have Defendants pay her reasonable attorney's fees. 20 U.S.C. § 1415(i)(3). The federal complaint seeks an award of these attorney's fees and costs, as well as the fees and costs incurred in this action. Defendants do not dispute that Plaintiff is the prevailing party entitled to reasonable attorney's fees.

Defendants' answer is due today, July 13, 2022. However, earlier this week, counsel for Defendants contacted the undersigned requesting an extension of time to answer. At that time, I indicated that Plaintiff would like to amend his complaint to include an additional administrative due process complaint for which he seeks attorneys' fees as the prevailing party. The parties consent to each other's requests. As such the parties propose the following schedule:

Plaintiff will file his amended complaint no later than July 20, 2022.

Defendants will answer the amended complaint no later than October 17, 2022.

Defendants requested, and Plaintiff consents, to an enlargement of time to answer the amended complaint to allow the parties time to explore the possibility of an early settlement. To that end, Plaintiff will provide Defendants his billing records for the two administrative cases and the instant federal action by the end of this month. Defendants will need time to review the records and seek Comptroller authority. The parties have successfully resolved via settlement numerous claims for attorneys' fees and costs under the IDEA, without the need for motion practice. We believe we can do so here as well.

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For these reasons, the parties respectfully request an adjournment of the initial conference currently scheduled for September 8, 2022. ECF No. 9. The parties propose adjournment to a date after October 17, 2022, the date Defendants' answer to the amended complaint would be due under the parties' proposed schedule. Alternatively, the parties propose adjournment of the conference *sine die*, with a status report due October 1, 2022, reporting on the status of settlement.

We thank the Court for its consideration of the parties' joint requests herein.

Respectfully Submitted,
THE LAW OFFICE OF ELISA HYMAN, P.C.

By: Erin O'Connor
Erin O'Connor, Esq., Of Counsel
Counsel for Plaintiff

cc: Hannah Sarokin, Esq., *Counsel for Defendants*, via ECF

Application GRANTED. Plaintiff shall file his amended complaint on or before July 20, 2022. Defendants shall answer the amended complaint on or before October 17, 2022. Further, The initial pretrial conference scheduled for September 8, 2022, is hereby ADJOURNED sine die. The parties are directed to file a status report on or before October 1, 2022, regarding the status of settlement discussions. The Clerk of Court is directed to terminate the pending motion at docket number 10.

Dated: July 14, 2022
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE